

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

May 7, 1992

Mr. Robert M. Scarberry
Regulatory Affairs Manager
Chemical Waste Management
Government Affairs Office
1155 Connecticut Avenue, N.W. Suite 800
Washington, D.C. 20036

Dear Mr. Scarberry:

In your letter of April 13, 1992, you raised concern regarding the waste code carry through principle and the impact of Land Disposal Restrictions (LDR) standards. Precisely, there are 17 waste codes that will require metal recovery after May 8, 1992. Although these wastes are no longer introduced into your incinerators, the use of recycled scrubber waters and other practices results in all residuals continuing to carry waste codes which require recovery. These residuals, however, no longer have recoverable levels of metals. The Agency is sympathetic to your concern with technology requirements that exist due to an application of the waste code carry through principle to an extreme situation. The interpretation contained in this memorandum should effectively resolve this problem.

In promulgating LDR standards that require metal recovery, the Agency stated its preference for recovery/reuse. To the extent that these wastes were processed prior to the LDR standards being effective, such that recoverable levels of metals are no longer present, the LDR standards of recovery are no longer appropriate. Because the high concentrations of metals that were present in these wastes were the basis for the listing and the residuals no longer contain high concentrations of metals, it is reasonable under very limited conditions to stop the waste code carry through for certain waste codes. If the following conditions are met, the waste code should be dropped:

- The waste code to be dropped has an LDR standard specifying recovery in section 268.42.
- The waste code to be dropped was not treated after the effective date of the LDR standard.
- All affected residuals remain listed hazardous wastes for another waste code.
- Recoverable levels of metals (greater than 1%) are not present in the residuals.

These conditions provide a very reasonable and targeted relief to prevent inappropriate

application of LDR standards. In addition, this interpretation is consistent with and reflects EPA's intent in promulgating the treatment standards based on recovery. This solution addresses your most immediate and most troublesome concern. Your letter does raise much broader questions on waste code carry through; however, those concerns will likely require a rulemaking and cannot be responded to at this time.

If you have any further questions on the relief provided for in this memorandum, please contact Richard Kinch at (703) 308-8434. If you would like to further discuss the broader questions on waste code carry through, please contact Rick Brandes at (202) 260-4770. Finally, thank you for raising this important issue.

Sincerely,

Sylvia K. Lowrance, Director
Office of Solid Waste

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